

CALENDAR ITEM

68

A	Statewide	10/01/02 W25846
S	Statewide	J. Lucchesi G. Kato M. Griggs J. Lien S. Rogalin

CONSIDERATION OF REPORT ENTITLED "PORT - COMMUNITY RELATIONSHIPS, STAFF REPORT TO THE CALIFORNIA STATE LANDS COMMISSION"

BACKGROUND:

In response to concerns raised by the public about port development projects and their impacts on local communities, the California State Lands Commission (CSLC or the Commission), at its meeting of April 9, 2002, requested that staff review the five major ports of California, specifically the Ports of San Francisco, Oakland, Los Angeles, Long Beach, and San Diego, and their relationships with their surrounding communities.

The Commission identified three major objectives for the report:

1. Conduct a review of planning and environmental issues.
2. Conduct a review of the relationships of the cities, regulatory agencies, and surrounding communities to the ports.
3. Examine alternatives through which the Commission and the ports can positively influence such relationships.

IDENTIFICATION OF ISSUES:

Port Related Environmental and Planning Issues

Staff gathered information via personal interviews, telephone interviews, meetings, public forums, web searches, and a review of published documents. Information was gathered from the ports and their associations, local municipalities, various state and federal agencies, and local citizen and environmental groups.

CALENDAR ITEM NO. **68** (CONT'D)

Port – Community Relationships

Staff gathered information through meetings and telephone interviews. This information was gathered from the ports, local municipalities, various state agencies, and local citizen and environmental groups.

State Lands Commission and the Ability to Affect Change

Staff examined the Public Trust Doctrine and the legal authorities associated with legislatively granted tide and submerged lands to determine what existing opportunities and limitations exist for the Commission.

RESULTS OF THE REVIEW:

While California ports are an essential part of the California and United States economies, they face and must address major challenges including, but not limited to, significant environmental and health risks associated with air and water quality, traffic congestion, port planning processes and allegations of resource mismanagement, and pressures by local communities and municipalities to use trust revenues and trust land for non-trust related activities.

The planning and environmental issues are further complicated by the fact that each entity concerned with port activities including the ports themselves, the cities, the regulatory agencies, community/residential groups and environmental groups has its own perspective. Commission staff found that:

- The Ports acknowledge tensions exist with their surrounding communities; however, the Ports feel that they are taking the necessary steps to address these tensions and that these relationships are gradually improving.
- The relationships between the ports and their cities range from one of tension to complete satisfaction. However, most cities feel that although there are remaining issues, such as use of revenues, the relationships are gradually improving.
- The regulatory agencies report that the relationships with the various ports have not always been positive; however, the current relationships with the ports are generally good due to increased communication, awareness and responsiveness on both sides.
- The responses from the community and environmental groups ranged from “the port does not listen to the needs of the community” to “the port should be a model for all other ports.” The majority of respondents acknowledged that the ports have generally gotten better in terms of communicating and understanding the community’s needs; however, there is still a dissatisfaction with some port activities.

CALENDAR ITEM NO. **68** (CONT'D)

Land occupied by the five major ports of California and the development activities associated with them are subject to the protections and restrictions of the Public Trust Doctrine. This legal precept provides that lands under tidal bodies of water (tide and submerged lands) and under navigable rivers, lakes and streams are held in trust for the all the people of California and are only to be used to serve and promote certain limited public purposes related to the waterways involved. When California became a state in 1850, the California Legislature was vested with primary authority over sovereign public trust lands within the state. Soon after statehood, the California Legislature began to grant, in trust, certain waterfront public trust lands to local jurisdictions in hopes that these local jurisdictions would be better able to develop and control the waterfronts of their cities.

As the Legislature's delegated trustee of granted lands, the cities and ports have the primary responsibility and authority to manage their trust grants and to select which uses, among competing statutorily authorized public trust uses, are appropriate for a particular site. Except for statutory provisions specifically involving the CSLC, the California Legislature has transferred legal title to these grantee cities and their boards of harbor commissioners, as trustees, have the primary responsibility to administer the trust on a day-to-day basis.

The role of the CSLC in the ports' conduct of their day-to-day activities – so long as the Public Trust Doctrine and grant requirements are met – is limited. The Commission can encourage, but not compel, better coordination between the ports and local communities.

CONCLUSIONS:

As part of its request that staff review port – community relationships, the Commission also requested staff to develop recommendations for Commission action to improve such relationships. Given the existing legal framework and this review, staff identifies several program options for the Commission to consider, which staff believes could help promote better relationships between the ports and their surrounding communities. These options include increased CSLC participation in the regulatory process, improved educational and informational outreach and expanded participation and influence in legislative proposals affecting grantees and their responsibilities and the CSLC and its responsibilities. Staff also identifies various actions for each of the five major ports to implement in order to promote a better relationship with their respective communities.

CALENDAR ITEM NO. **68** (CONT'D)

EXHIBIT:

- A. Report entitled: "Port – Community Relationships, Staff Report to the California State Lands Commission "

RECOMMENDATIONS:

IT IS RECOMMENDED THAT THE COMMISSION:

ACCEPT THE REPORT AND DIRECT STAFF TO CARRY OUT THOSE RECOMMENDATIONS IDENTIFIED IN "PORT – COMMUNITY RELATIONSHIPS, A STAFF REPORT TO THE CALIFORNIA STATE LANDS COMMISSION", ATTACHED HERETO AS EXHIBIT "A".